

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 88

HOUSE BILL 2209

AN ACT

AMENDING SECTIONS 38-431.01, 38-431.02 AND 41-1006, ARIZONA REVISED STATUTES;
RELATING TO PUBLIC NOTICES OF MEETINGS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 38-431.01, Arizona Revised Statutes, is amended to
3 read:

4 38-431.01. Meetings shall be open to the public

5 A. All meetings of any public body shall be public meetings and all
6 persons so desiring shall be permitted to attend and listen to the
7 deliberations and proceedings. All legal action of public bodies shall occur
8 during a public meeting.

9 B. All public bodies shall provide for the taking of written minutes
10 or a recording of all their meetings, including executive sessions. For
11 meetings other than executive sessions, such minutes or recording shall
12 include, but not be limited to:

13 1. The date, time and place of the meeting.

14 2. The members of the public body recorded as either present or
15 absent.

16 3. A general description of the matters considered.

17 4. An accurate description of all legal actions proposed, discussed or
18 taken, and the names of members who propose each motion. The minutes shall
19 also include the names of the persons, as given, making statements or
20 presenting material to the public body and a reference to the legal action
21 about which they made statements or presented material.

22 C. Minutes of executive sessions shall include items set forth in
23 subsection B, paragraphs 1, 2 and 3 of this section, an accurate description
24 of all instructions given pursuant to section 38-431.03, subsection A,
25 paragraphs 4, 5 and 7 and such other matters as may be deemed appropriate by
26 the public body.

27 D. The minutes or a recording of a meeting shall be available for
28 public inspection three working days after the meeting except as otherwise
29 specifically provided by this article.

30 E. A public body of a city or town with a population of more than two
31 thousand five hundred persons shall:

32 1. Within three working days after a meeting, except for subcommittees
33 and advisory committees, post on its ~~internet~~ website, if applicable, either:

34 (a) A statement describing the legal actions taken by the public body
35 of the city or town during the meeting.

36 (b) Any recording of the meeting.

37 2. Within two working days following approval of the minutes, post
38 approved minutes of city or town council meetings on its ~~internet~~ website, if
39 applicable, except as otherwise specifically provided by this article.

40 3. Within ten working days after a subcommittee or advisory committee
41 meeting, post on its ~~internet~~ website, if applicable, either:

42 (a) A statement describing legal action, if any.

43 (b) A recording of the meeting.

1 F. All or any part of a public meeting of a public body may be
2 recorded by any person in attendance by means of a tape recorder or camera or
3 any other means of sonic reproduction, provided that there is no active
4 interference with the conduct of the meeting.

5 G. The secretary of state for state public bodies, the city or town
6 clerk for municipal public bodies and the county clerk for all other local
7 public bodies shall ~~distribute~~ CONSPICUOUSLY POST open meeting law materials
8 prepared and approved by the attorney general ON THEIR WEBSITE. ~~to~~ A person
9 elected or appointed to a public body SHALL REVIEW THE OPEN MEETING LAW
10 MATERIALS AT LEAST ONE DAY before the day that person takes office.

11 H. A public body may make an open call to the public during a public
12 meeting, subject to reasonable time, place and manner restrictions, to allow
13 individuals to address the public body on any issue within the jurisdiction
14 of the public body. At the conclusion of an open call to the public,
15 individual members of the public body may respond to criticism made by those
16 who have addressed the public body, may ask staff to review a matter or may
17 ask that a matter be put on a future agenda. However, members of the public
18 body shall not discuss or take legal action on matters raised during an open
19 call to the public unless the matters are properly noticed for discussion and
20 legal action.

21 I. A member of a public body shall not knowingly direct any staff
22 member to communicate in violation of this article.

23 J. Any posting required by subsection E of this section must remain on
24 the applicable ~~internet~~ website for at least one year after the date of the
25 posting.

26 Sec. 2. Section 38-431.02, Arizona Revised Statutes, is amended to
27 read:

28 38-431.02. Notice of meetings

29 A. Public notice of all meetings of public bodies shall be given as
30 follows:

31 1. The public bodies of this state, including governing bodies of
32 charter schools, shall: ~~file~~

33 (a) CONSPICUOUSLY POST a statement ~~with the secretary of state~~ ON
34 THEIR WEBSITE stating where all public notices of their meetings will be
35 posted, INCLUDING THE PHYSICAL AND ELECTRONIC LOCATIONS, and shall give ~~such~~
36 additional public notice as is reasonable and practicable as to all meetings.

37 (b) POST ALL PUBLIC MEETING NOTICES ON THEIR WEBSITE AND GIVE
38 ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS.
39 A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS THE POSTING OF PUBLIC
40 NOTICES ON A WEBSITE OR THAT TEMPORARILY OR PERMANENTLY PREVENTS THE USE OF
41 ALL OR PART OF THE WEBSITE DOES NOT PRECLUDE THE HOLDING OF THE MEETING FOR
42 WHICH THE NOTICE WAS POSTED IF THE PUBLIC BODY COMPLIES WITH ALL OTHER PUBLIC
43 NOTICE REQUIREMENTS REQUIRED BY THIS SECTION.

1 2. The public bodies of the counties, ~~AND school districts and other~~
2 ~~special districts~~ shall: ~~file~~

3 (a) CONSPICUOUSLY POST a statement ~~with the clerk of the board of~~
4 ~~supervisors~~ ON THEIR WEBSITE stating where all public notices of their
5 meetings will be posted, INCLUDING THE PHYSICAL AND ELECTRONIC LOCATIONS, and
6 shall give ~~such~~ additional public notice as is reasonable and practicable as
7 to all meetings.

8 (b) POST ALL PUBLIC MEETING NOTICES ON THEIR WEBSITE AND GIVE
9 ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL MEETINGS.
10 A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS THE POSTING OF PUBLIC
11 NOTICES ON A WEBSITE OR THAT TEMPORARILY OR PERMANENTLY PREVENTS THE USE OF
12 ALL OR PART OF THE WEBSITE DOES NOT PRECLUDE THE HOLDING OF THE MEETING FOR
13 WHICH THE NOTICE WAS POSTED IF THE PUBLIC BODY COMPLIES WITH ALL OTHER PUBLIC
14 NOTICE REQUIREMENTS REQUIRED BY THIS SECTION.

15 3. SPECIAL DISTRICTS THAT ARE FORMED PURSUANT TO TITLE 48:

16 (a) MAY CONSPICUOUSLY POST A STATEMENT ON THEIR WEBSITE STATING WHERE
17 ALL PUBLIC NOTICES OF THEIR MEETINGS WILL BE POSTED, INCLUDING THE PHYSICAL
18 AND ELECTRONIC LOCATIONS, AND SHALL GIVE ADDITIONAL PUBLIC NOTICE AS IS
19 REASONABLE AND PRACTICABLE AS TO ALL MEETINGS.

20 (b) MAY POST ALL PUBLIC MEETING NOTICES ON THEIR WEBSITE AND SHALL
21 GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND PRACTICABLE AS TO ALL
22 MEETINGS. A TECHNOLOGICAL PROBLEM OR FAILURE THAT EITHER PREVENTS THE
23 POSTING OF PUBLIC NOTICES ON A WEBSITE OR THAT TEMPORARILY OR PERMANENTLY
24 PREVENTS THE USE OF ALL OR PART OF THE WEBSITE DOES NOT PRECLUDE THE HOLDING
25 OF THE MEETING FOR WHICH THE NOTICE WAS POSTED IF THE PUBLIC BODY COMPLIES
26 WITH ALL OTHER PUBLIC NOTICE REQUIREMENTS REQUIRED BY THIS SECTION.

27 (c) IF A STATEMENT OR NOTICE IS NOT POSTED PURSUANT TO SUBDIVISION (a)
28 OR (b) OF THIS PARAGRAPH, SHALL FILE A STATEMENT WITH THE CLERK OF THE BOARD
29 OF SUPERVISORS STATING WHERE ALL PUBLIC NOTICES OF THEIR MEETINGS WILL BE
30 POSTED AND SHALL GIVE ADDITIONAL PUBLIC NOTICE AS IS REASONABLE AND
31 PRACTICABLE AS TO ALL MEETINGS.

32 ~~3.~~ 4. The public bodies of the cities and towns shall: ~~file~~

33 (a) CONSPICUOUSLY POST a statement ~~with the city clerk or mayor's~~
34 ~~office~~ ON THEIR WEBSITE OR ON A WEBSITE OF AN ASSOCIATION OF CITIES AND TOWNS
35 stating where all public notices of their meetings will be posted, INCLUDING
36 THE PHYSICAL AND ELECTRONIC LOCATIONS, and shall give ~~such~~ additional public
37 notice as is reasonable and practicable as to all meetings.

38 ~~4.~~ (b) ~~The public bodies of the cities and towns that have an~~
39 ~~internet website shall~~ Post all public MEETING notices ~~of their meetings~~ on
40 their ~~internet~~ website OR ON A WEBSITE OF AN ASSOCIATION OF CITIES AND TOWNS
41 and ~~shall~~ give additional public notice as is reasonable and practicable as
42 to all meetings. A technological problem or failure that either prevents the
43 posting of public notices on a ~~city or town~~ website or that temporarily or
44 permanently prevents the usage USE of all or part of the website does not

1 preclude the holding of the meeting for which the notice was posted if THE
2 PUBLIC BODY COMPLIES WITH all other public notice requirements required by
3 this section ~~are complied with.~~

4 B. ~~If an executive session will be held, the notice shall be given~~ IS
5 SCHEDULED, A NOTICE OF THE EXECUTIVE SESSION SHALL STATE THE PROVISION OF LAW
6 AUTHORIZING THE EXECUTIVE SESSION, AND THE NOTICE SHALL BE PROVIDED to the:

7 1. Members of the public body. ~~, and to the~~

8 2. General public, ~~stating the specific provision of law authorizing~~
9 ~~the executive session.~~

10 C. Except as provided in subsections D and E of this section, meetings
11 shall not be held without at least twenty-four hours' notice to the members
12 of the public body and to the general public. The twenty-four hour period
13 includes Saturdays if the public has access to the physical posted location
14 in addition to any internet website posting, but excludes Sundays and other
15 holidays prescribed in section 1-301.

16 D. In case of an actual emergency, a meeting, including an executive
17 session, may be held on such notice as is appropriate to the circumstances.
18 If this subsection is utilized for conduct of an emergency session or the
19 consideration of an emergency measure at a previously scheduled meeting the
20 public body must post a public notice within twenty-four hours declaring that
21 an emergency session has been held and setting forth the information required
22 in subsections H and I of this section.

23 E. A meeting may be recessed and resumed with less than twenty-four
24 hours' notice if public notice of the initial session of the meeting is given
25 as required in subsection A of this section, and if, before recessing, notice
26 is publicly given as to the time and place of the resumption of the meeting
27 or the method by which notice shall be publicly given.

28 F. A public body that intends to meet for a specified calendar period,
29 on a regular day, date or event during the calendar period, and at a regular
30 place and time, may post public notice of the meetings at the beginning of
31 the period. The notice shall specify the period for which notice is
32 applicable.

33 G. Notice required under this section shall include an agenda of the
34 matters to be discussed or decided at the meeting or information on how the
35 public may obtain a copy of such an agenda. The agenda must be available to
36 the public at least twenty-four hours before the meeting, except in the case
37 of an actual emergency under subsection D of this section. The twenty-four
38 hour period includes Saturdays if the public has access to the physical
39 posted location in addition to any internet website posting, but excludes
40 Sundays and other holidays prescribed in section 1-301.

41 H. Agendas required under this section shall list the specific matters
42 to be discussed, considered or decided at the meeting. The public body may
43 discuss, consider or make decisions only on matters listed on the agenda and
44 other matters related thereto.

1 I. Notwithstanding the other provisions of this section, notice of
2 executive sessions shall be required to include only a general description of
3 the matters to be considered. The agenda shall provide more than just a
4 recital of the statutory provisions authorizing the executive session, but
5 need not contain information that would defeat the purpose of the executive
6 session, compromise the legitimate privacy interests of a public officer,
7 appointee or employee or compromise the attorney-client privilege.

8 J. Notwithstanding subsections H and I of this section, in the case of
9 an actual emergency a matter may be discussed and considered and, at public
10 meetings, decided, if the matter was not listed on the agenda and a statement
11 setting forth the reasons necessitating the discussion, consideration or
12 decision is placed in the minutes of the meeting and is publicly announced at
13 the public meeting. In the case of an executive session, the reason for
14 consideration of the emergency measure shall be announced publicly
15 immediately before the executive session.

16 K. Notwithstanding subsection H of this section, the chief
17 administrator, presiding officer or a member of a public body may present a
18 brief summary of current events without listing in the agenda the specific
19 matters to be summarized, if:

20 1. The summary is listed on the agenda.

21 2. The public body does not propose, discuss, deliberate or take legal
22 action at that meeting on any matter in the summary unless the specific
23 matter is properly noticed for legal action.

24 Sec. 3. Section 41-1006, Arizona Revised Statutes, is amended to read:

25 41-1006. Employees providing agency assistance; identification
26 and publication

27 Each state agency ~~that employs more than one hundred persons~~ shall
28 publish annually in the register, in the state directory and in a telephone
29 directory for Maricopa county the name or names of those employees who are
30 designated by the agency to assist members of the public or regulated
31 community in seeking information or assistance from the agency.

APPROVED BY THE GOVERNOR APRIL 19, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2010.